

AN ACT relating to the regulation of cannabis and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. KRS CHAPTER 245 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*For the purposes of this chapter:*

*(1) "Cannabis" means all parts of the plant Cannabis sp., whether growing or not; the viable seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its viable seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "cannabis" does not include:*

*(a) Industrial hemp as defined in KRS 260.850;*

*(b) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or*

*(c) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;*

*(2) "Cannabis cultivation facility" means any facility owned by a person licensed by the department to cultivate cannabis for sale to licensed cannabis processing facilities or retail cannabis facilities;*

*(3) "Cannabis-related entity" means any cannabis cultivation facility, cannabis processing facility, cannabis testing facility, or retail cannabis facility operated by a licensee;*

*(4) "Cannabis processing facility" means any facility owned by a person licensed by the department to purchase cannabis from cannabis cultivation facilities in order*

to manufacture, prepare, and package cannabis products for sale to retail cannabis facilities;

(5) "Cannabis products" means concentrated cannabis and products containing cannabis or concentrated cannabis intended for human use or consumption, including but not limited to edible products, ointments, and tinctures;

(6) "Cannabis testing facility" means any facility owned by a person licensed by the department to test cannabis or cannabis products for potency and contaminants before it is sold to a retail cannabis facility;

(7) "Concentrated cannabis" means any preparation, mixture, or extraction of any part of the cannabis plant that is created using solvents other than water or vegetable glycerin;

(8) "Department" means the Department of Alcoholic Beverage and Cannabis Control;

(9) "Immature cannabis plant" means any cannabis plant that has not flowered and which does not have buds that may be observed by visual examination;

(10) "License" means any license issued by the department pursuant to this chapter;

(11) "Licensee" means any person to whom a license has been issued by the department pursuant to this chapter;

(12) "Person" has the same meaning as in KRS 138.130; and

(13) "Retail cannabis facility" means any facility owned by a person licensed by the department to purchase cannabis and cannabis products from cannabis cultivation facilities and cannabis processing facilities for the purpose of selling cannabis and cannabis products to consumers.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, only persons twenty-one (21) years of age or older may:

- (a) Possess up to one (1) ounce of cannabis on his or her person;
  - (b) Possess and cultivate up to five (5) cannabis plants for personal consumption;
  - (c) Possess any additional cannabis produced by the person's lawful cannabis cultivation, except that any amount of cannabis in excess of one (1) ounce shall be possessed in the same facility or on the same property where the cannabis plants were cultivated;
  - (d) Consume cannabis on private property with the permission of the property owner;
  - (e) Transfer one (1) ounce or less of cannabis and up to five (5) immature cannabis plants to persons twenty-one (21) years of age or older without remuneration; and
  - (f) Assist any person who is twenty-one (21) years of age or older in any of the acts described in this section.
- (2) A person under twenty-one (21) years of age may only possess up to one (1) ounce of cannabis or cannabis products pursuant to a recommendation issued by a physician acting under Section 18 of this Act.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of smoking cannabis in public when he or she uses a flame or any other source of heat to combust cannabis for the purpose of consuming cannabis on public property.
- (2) Smoking cannabis in public is a violation subject to a maximum fine of one hundred dollars (\$100).

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, "premises" means the building where a person licensed

by the department sells cannabis and cannabis products to retail consumers.

(2) A person under twenty-one (21) years of age shall not enter any premises licensed for the retail sale of cannabis or cannabis products for the purpose of purchasing or receiving any cannabis or cannabis products.

(3) A person under twenty-one (21) years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any cannabis or cannabis products. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or having delivered or served to him or her any cannabis or cannabis products.

(4) A person under twenty-one (21) years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent or employee, to sell any cannabis or cannabis products to the underage person.

(5) A person under twenty-one (21) years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any cannabis or cannabis products.

(6) A licensee, or his or her agents or employees, shall not permit any person under twenty-one (21) years of age to remain on any premises where cannabis and cannabis products are sold.

(7) A person under the age of twenty-one (21) shall not remain on any premises that sells cannabis or cannabis products to retail consumers.

(8) A violation of subsection (2), (3), (4), (5), (6), or (7) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

(9) A violation of subsection (3) and (6) of this section shall be a Class B misdemeanor if committed by a person over the age of eighteen (18).

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of unlawful possession of cannabis when he or she knowingly and unlawfully possesses cannabis in violation of Section 2 of this Act.
- (2) Unlawful possession of cannabis is a violation subject to a maximum fine of two hundred and fifty dollars (\$250).

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) Any person who chooses to cultivate cannabis for personal consumption shall take reasonable precautions to ensure that any cannabis or cannabis plants are secure from unauthorized access and access by persons under twenty-one (21) years of age.
- (2) Cannabis cultivation for personal consumption shall only occur on property lawfully in possession of the person cultivating cannabis or with the consent of the person in lawful possession of the property.
- (3) Any person who violates subsection (1) or (2) of this section shall be subject to a maximum fine of five hundred dollars (\$500).

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of unlawful cannabis cultivation when he or she knowingly and unlawfully plants, cultivates, or harvests cannabis with the intent to unlawfully sell or transfer it for valuable consideration.
- (2) Unlawful cannabis cultivation of eleven (11) or more cannabis plants is a Class D felony.
- (3) Unlawful cannabis cultivation of six (6) to ten (10) cannabis plants is a Class A misdemeanor.
- (4) Unlawful cannabis cultivation of five (5) or fewer cannabis plants is a Class B

misdemeanor.

(5) The unlawful planting, cultivating, or harvesting of six (6) or more cannabis plants shall be prima facie evidence that the cannabis plants were planted, cultivated, or harvested for the purpose of unlawful sale or transfer.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Alcoholic Beverage and Cannabis Control shall promulgate administrative regulations necessary for implementation of this chapter, which shall include:

(a) Procedures for the issuance, renewal, suspension, and revocation of licenses issued pursuant to this chapter, which shall be subject to all requirements of KRS Chapters 13A and 13B;

(b) Security requirements, including lighting, physical security, video surveillance, and alarm requirements;

(c) Requirements for the secure transportation and storage of cannabis and cannabis products by licensees and their employees or agents;

(d) Employment and training requirements for licensees, their agents, or their employees, including requiring each licensee to create an identification badge for each of the licensee's agents or employees;

(e) Standards for cannabis product processors to determine the amount of cannabis that cannabis products are considered the equivalent to;

(f) Requirements for the packaging and labeling of cannabis and cannabis products sold or distributed by licensees, including:

1. Warnings for the length of time it typically takes for the product to take effect and how long the effects will typically last;

2. The amount of cannabis the product is considered the equivalent to;

3. Disclosing ingredients and possible allergens;

4. A nutritional fact panel;
5. Opaque, child-resistant packaging; and
6. A requirement that edible cannabis products be clearly marked with an identifiable and standardized symbol indicating that the product contains cannabis;
- (g) Health and safety requirements for the processing of cannabis and cannabis products and both the indoor and outdoor cultivation of cannabis by licensees;
- (h) Restrictions on advertising, marketing, and signage in regards to operations or establishments owned by licensees necessary to prevent the targeting of minors;
- (i) Restrictions on additives to cannabis and cannabis products that are toxic or increase the likelihood of addiction;
- (j) Restrictions on pesticides used during cannabis cultivation which pose a threat to human health and safety;
- (k) Restrictions on visits to cannabis cultivation and processing facilities, including requiring the use of visitor logs;
- (l) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving in a cannabis product;
- (m) Standards for the safe processing of cannabis products created by extracting or concentrating compounds from plant materials;
- (n) Requirements that evidence-based educational materials regarding dosage and impairment be disseminated to consumers who purchase cannabis products;
- (o) Requirements for random sample testing of cannabis and cannabis products to ensure quality control, including testing for residual solvents, pesticides, poisons, toxins, mold, mildew, insects, bacteria, and any other

dangerous adulterant; and

(p) Standards for the operation of cannabis testing facilities, including requirements for equipment and personnel qualifications.

(2) The department shall promulgate the required administrative regulations within one hundred eighty (180) days after the effective date of this Act.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) No person shall cultivate, possess, test, transfer, or sell cannabis in this state without first obtaining a license under this section, except as provided in Section 2 of this Act.

(2) The department shall create separate licenses allowing persons to operate either:

(a) A cannabis cultivation facility;

(b) A cannabis processing facility;

(c) A cannabis testing facility; or

(d) A retail cannabis facility.

(3) No person may hold more than one (1) type of license issued pursuant to this chapter.

(4) Licenses issued pursuant to this chapter shall permit the licensee to operate only one (1) type of cannabis-related entity.

(5) A license issued pursuant to this chapter shall be valid for one (1) year from the date of issuance. The department shall notify each licensee ninety (90) days prior to the date the license expires to allow the licensee to begin the renewal procedure promulgated by the department pursuant to Section 8 of this Act.

(6) The licensing and renewal fees for each license created under subsection (2) of this section shall be five thousand dollars (\$5,000).

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:



- (1) The department shall create a uniform application form for licenses issued pursuant to this section.
- (2) A person applying for a license to operate a cannabis-related entity shall complete the application form prescribed by the department in subsection (1) of this section and return the application form to the department with the required nonrefundable application fee of one hundred dollars (\$100).
- (3) The department shall issue a license to a person who applies for one unless:
- (a) The person has been convicted of a criminal offense which would qualify him or her as a violent offender as defined in KRS 439.3401;
- (b) The person falsifies information on the application for a license; or
- (c) The person has had a previous license issued pursuant to this section of this Act revoked by the department within the previous twelve (12) months prior to his or her reapplication.
- (4) The application fee required under subsection (2) of this section shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.
- (5) Licenses issued pursuant to this section shall not be transferrable.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) Effective January 1, 2018, an excise tax is hereby imposed on every person licensed as a cannabis cultivation facility on the sale or transfer of cannabis to a cannabis processing facility or a retail cannabis facility in this state at the rate of:
- (a) Thirty dollars (\$30) per ounce on all cannabis flowers;
- (b) Ten dollars (\$10) per ounce on all parts of the cannabis plant other than the flowers; and
- (c) Ten dollars (\$10) per immature cannabis plant.
- (2) The rates of tax imposed by this section apply proportionately to quantities of less

than one (1) ounce.

(3) Each person licensed as a cannabis cultivation facility shall report and pay to the Department of Revenue the tax levied by subsection (1) of this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the cannabis is transferred from the cannabis cultivation facility to a cannabis processing facility or a retail cannabis facility in this state. A tax return shall be filed for each reporting period whether or not tax is due.

(4) The Department of Revenue may prescribe forms and promulgate administrative regulations in conformance with KRS Chapter 13A to execute and administer the provisions of this section.

(5) Any person who violates any provision of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) All of the fees paid into the State Treasury for licenses issued under Section 10 of this Act and all fees collected pursuant to the department's administrative regulations promulgated pursuant to Section 8 of this Act shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the department.

(2) The moneys in the account shall be used solely for the administration and enforcement of this chapter and shall not lapse at the close of the fiscal year.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Responsible Cannabis Use Program fund is created and

established as a restricted fund.

(2) The fund shall be administered by the Finance and Administration Cabinet.

(3) For all tax periods beginning on or after January 1, 2018, all receipts collected under KRS 139.200 and 139.310 from the sales and use tax collected from the retail sale of cannabis and cannabis products in this state pursuant to this chapter and the excise taxes collected pursuant to Section 11 of this Act shall be deposited in the fund together with any other money contributed, appropriated, or allocated to the fund from all other sources. The money deposited in the fund is hereby appropriated for the uses set forth in this section. Any money remaining in the fund at the close of any calendar year shall not lapse but shall be carried forward to the next calendar year. The fund may also receive additional state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(4) The money contained in the fund shall be distributed according to the following formula:

(a) Thirty percent (30%) of the money shall be deposited into the public school fund to support education excellence in Kentucky established in KRS 157.330;

(b) Twenty percent (20%) of the money shall be transferred to the Kentucky Department of Education, which shall dispense the money in the form of scholarships awarded to applicants based on socioeconomic need in order to attain an education at a public institution of postsecondary education located within the Commonwealth;

(c) Twenty percent (20%) of the money shall be transferred to the Office of Drug Control Policy, which shall dispense the money in the form of grants to substance abuse treatment programs that employ evidence-based behavioral health treatment or medically assisted treatment;

- (d) Fifteen percent (15%) of the money shall be transferred to the Kentucky Law Enforcement Council, which shall dispense the money in the form of grants to city or county law enforcement agencies to pay for body armor, bullet-resistant windshields for police vehicles, communications equipment, or training; and
- (e) Fifteen percent (15%) shall be deposited into the general fund.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) Any person licensed under Section 10 of this Act who violates any provision of this chapter, or any administrative regulation promulgated under this chapter, shall become indebted to the Commonwealth in the sum of five hundred dollars (\$500) for each violation. The civil penalty may be collected by action in the Franklin Circuit Court.
- (2) Any licensee who fails to keep written records, and submit reports to the Department of Revenue, as required by the regulations promulgated pursuant to Section 11 of this Act shall become indebted to the Commonwealth in the sum of one thousand dollars (\$1,000) for each violation. The penalty may be enforced by action in the Franklin Circuit Court.
- (3) Any person acting in the capacity of a cannabis cultivation facility under this chapter without having secured a license as provided in Section 10 of this Act shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent

corporate office of any corporation subject to this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under Section 11 of this Act.

(2) Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to every person holding a corporate office at the time the tax becomes or became due.

(3) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to this chapter shall be personally and individually liable, both jointly and severally, for the tax imposed under Section 11 of this Act.

(4) Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office, shall not discharge the liability of any person. The personal and individual liability shall apply to every manager of a limited liability company, partner of a limited liability partnership, or general partner of a limited liability limited partnership at the time the tax becomes or became due.

(5) No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any tax imposed by Section 11 of this Act at the time the tax imposed becomes or became due.

(6) "Tax" as used in this section includes interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties imposed under KRS 131.180, 131.410 to 131.445, and

131.990.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) It is declared to be the legislative intent of this chapter that any cannabis or cannabis products held, owned, possessed, or in control of any person other than as provided in this chapter is contraband and subject to seizure and forfeiture as set out in this section.

(2) Whenever any peace officer of this state, or any representative of the department, finds any cannabis or cannabis products within the borders of this state in the possession of any person other than a person authorized to possess cannabis or cannabis products pursuant to this chapter, the peace officer or representative of the department shall following the same procedures established in KRS 244.190, 244.195, and 244.200 in terms of seizing and disposing contraband.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) No city, county, urban-county government, charter county government, consolidated local government, or unified local government shall utilize the zoning process to:

(a) Institute a moratorium upon the citing of cannabis-related entities;

(b) Prohibit a licensee seeking to operate a cannabis cultivation facility from locating at any place within the jurisdiction at which any agricultural use is permitted;

(c) Prohibit a licensee seeking to operate a cannabis processing facility from locating at any place within the jurisdiction at which any other manufacturer may locate;

(d) Prohibit a licensee seeking to operate a cannabis testing facility from locating at any place within the jurisdiction at which any other medical

laboratory or testing facility may locate; or

(e) Prohibit a licensee seeking to operate a retail cannabis facility from locating at any place within the jurisdiction at which any other business licensed to sell alcoholic beverages may locate.

(2) No city, county, urban-county government, charter county government, consolidated local government, or unified local government shall create specific zoning ordinances regulating cannabis-related entities which establish security requirements in excess of what the Department of Alcoholic Beverage and Cannabis Control requires of licensees pursuant to administrative regulation.

(3) No city, county, urban-county government, charter county government, consolidated local government, or unified local government shall charge a licensee seeking permission to operate a cannabis-related facility any additional application fee or any fee in excess of what other applicants seeking zoning permission for a business are charged.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No existing or future city, county, urban-county government, charter county government, consolidated local government, unified local government, special district, special purpose governmental entity, local or regional public or quasi-public agency, board, commission, department, public corporation, or any person acting under the authority of any of these organizations may institute a moratorium on cannabis-related entities licensed by the Department of Alcoholic Beverage and Cannabis Control by existing or future ordinance, executive order, administrative regulation, policy, procedure, rule, or any other form of executive or legislative action in violation of this section.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) Any physician licensed by the board to engage in the practice of medicine or osteopathy may recommend cannabis or cannabis products to any patient eighteen (18) years of age or older who, in the professional opinion of the physician, would benefit from such a course of treatment.
- (2) Any physician licensed by the board to engage in the practice of medicine or osteopathy may recommend cannabis or cannabis products to any patient under the age of eighteen (18) if the patient's parent or guardian consents to the treatment and a second physician licensed by the board recommends the same course of treatment.
- (3) No physician acting in good faith pursuant to subsection (1) or (2) of this section shall be criminally or civilly liable for recommending cannabis or cannabis products to patients. The board shall not prohibit physicians acting in good faith from recommending cannabis or cannabis products through administrative regulation, procedure, rule, or hearing.

➔Section 20. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.



I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
- (4) Department of Law.
  - (a) Attorney General.
- (5) Department of the Treasury.
  - (a) Treasurer.
- (6) Department of Agriculture.
  - (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
  - (a) Department of Kentucky State Police.
  - (b) Department of Criminal Justice Training.
  - (c) Department of Corrections.
  - (d) Department of Juvenile Justice.
  - (e) Office of the Secretary.
  - (f) Office of Drug Control Policy.
  - (g) Office of Legal Services.
  - (h) Office of the Kentucky State Medical Examiner.
  - (i) Parole Board.
  - (j) Kentucky State Corrections Commission.

- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
  - (a) Office of the Secretary.
    - 1. Governor's Scholars Program.
    - 2. Governor's School for Entrepreneurs Program.
  - (b) Office of Legal and Legislative Services.
    - 1. Client Assistance Program.
  - (c) Office of Communication.
  - (d) Office of Budget and Administration.
    - 1. Division of Human Resources.
    - 2. Division of Administrative Services.
  - (e) Office of Technology Services.
  - (f) Office of Educational Programs.
  - (g) Office for Education and Workforce Statistics.
  - (h) Board of the Kentucky Center for Education and Workforce Statistics.
  - (i) Board of Directors for the Center for School Safety.
  - (j) Department of Education.
    - 1. Kentucky Board of Education.
    - 2. Kentucky Technical Education Personnel Board.
  - (k) Department for Libraries and Archives.
  - (l) Department of Workforce Investment.
    - 1. Office for the Blind.
    - 2. Office of Vocational Rehabilitation.
    - 3. Office of Employment and Training.
      - a. Division of Grant Management and Support.

- b. Division of Workforce and Employment Services.
- c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
  - 1. Division of Educator Preparation.
  - 2. Division of Certification.
  - 3. Division of Professional Learning and Assessment.
  - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
  - (a) Office of the Secretary.
    - 1. Office of Legislative and Intergovernmental Affairs.
    - 2. Office of General Counsel.
    - 3. Office of Administrative Hearings.
    - 4. Mine Safety Review Commission.
    - 5. Kentucky State Nature Preserves Commission.
    - 6. Kentucky Environmental Quality Commission.
    - 7. Kentucky Public Service Commission.
  - (b) Department for Environmental Protection.
    - 1. Office of the Commissioner.
    - 2. Division for Air Quality.

3. Division of Water.
  4. Division of Environmental Program Support.
  5. Division of Waste Management.
  6. Division of Enforcement.
  7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
  2. Division of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.
  5. Division of Abandoned Mine Lands.
  6. Division of Oil and Gas.
  7. Division of Mine Safety.
  8. Division of Forestry.
  9. Division of Conservation.
  10. Office of the Reclamation Guaranty Fund.
  11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
  2. Division of Renewable Energy.
  3. Division of Biofuels.
  4. Division of Energy Generation Transmission and Distribution.
  5. Division of Carbon Management.
  6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.

2. Office of Legal Services.
  - a. Insurance Legal Division.
  - b. Charitable Gaming Legal Division.
  - c. Alcoholic Beverage **and Cannabis** Control Legal Division.
  - d. Housing, Buildings and Construction Legal Division.
  - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
  1. Division of Licensing.
  2. Division of Incentives and Development.
  3. Division of Veterinary Services.
  4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage **and Cannabis** Control.
  1. Division of Distilled Spirits.
  2. Division of Malt Beverages.
  3. Division of Enforcement.
  - 4. Division of Cannabis.**
- (h) Department of Charitable Gaming.
  1. Division of Licensing and Compliance.
  2. Division of Enforcement.
- (i) Department of Financial Institutions.
  1. Division of Depository Institutions.
  2. Division of Non-Depository Institutions.
  3. Division of Securities.

- (j) Department of Housing, Buildings and Construction.
  - 1. Division of Fire Prevention.
  - 2. Division of Plumbing.
  - 3. Division of Heating, Ventilation, and Air Conditioning.
  - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
  - 1. Property and Casualty Division.
  - 2. Health and Life Division.
  - 3. Division of Financial Standards and Examination.
  - 4. Division of Agent Licensing.
  - 5. Division of Insurance Fraud Investigation.
  - 6. Consumer Protection Division.
  - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
  - (a) Office of the Secretary.
    - 1. Division of Management Services.
    - 2. Office of General Counsel.
  - (b) Office of General Administration and Program Support for Shared Services.
    - 1. Division of Human Resource Management.
    - 2. Division of Fiscal Management.
    - 3. Division of Budgets.
    - 4. Division of Information Services.
  - (c) Office of Inspector General for Shared Services.
  - (d) Department of Workplace Standards.
    - 1. Division of Employment Standards, Apprenticeship, and

- Mediation.
- 2. Division of Occupational Safety and Health Compliance.
- 3. Division of Occupational Safety and Health Education and Training.
- 4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
  - 1. Office of General Counsel for Workers' Claims.
  - 2. Office of Administrative Law Judges.
  - 3. Division of Claims Processing.
  - 4. Division of Security and Compliance.
  - 5. Division of Information and Research.
  - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
  - 7. Workers' Compensation Board.
  - 8. Workers' Compensation Advisory Council.
  - 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
  - (a) Department of Highways.
    - 1. Office of Project Development.

2. Office of Project Delivery and Preservation.
3. Office of Highway Safety.
4. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Aviation.
- (d) Department of Rural and Municipal Aid.
  1. Office of Local Programs.
  2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
  1. Office of Public Affairs.
  2. Office for Civil Rights and Small Business Development.
  3. Office of Budget and Fiscal Management.
  4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
  - (a) Office of the Secretary.
    1. Office of Legal Services.
    2. Department for Business Development.
      - a. Office of Entrepreneurship.
        - i. Commission on Small Business Advocacy.
      - b. Office of Research and Public Affairs.
      - c. Bluegrass State Skills Corporation.



3. Office of Financial Services.
  - a. Kentucky Economic Development Finance Authority.
  - b. Division of Finance and Personnel.
  - c. Division of Network Administration.
  - d. Compliance Division.
  - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
  - (a) Office of the Secretary.
  - (b) Office of Health Policy.
  - (c) Office of Legal Services.
  - (d) Office of Inspector General.
  - (e) Office of Communications and Administrative Review.
  - (f) Office of the Ombudsman.
  - (g) Office of Policy and Budget.
  - (h) Office of Human Resource Management.
  - (i) Office of Administrative and Technology Services.
  - (j) Department for Public Health.
  - (k) Department for Medicaid Services.
  - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
  - (m) Department for Aging and Independent Living.
  - (n) Department for Community Based Services.
  - (o) Department for Income Support.
  - (p) Department for Family Resource Centers and Volunteer Services.
  - (q) Kentucky Commission on Community Volunteerism and Service.
  - (r) Kentucky Commission for Children with Special Health Care Needs.
  - (s) Governor's Office of Electronic Health Information.

- (9) Finance and Administration Cabinet:
  - (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Office of Policy and Audit.
  - (f) Department for Facilities and Support Services.
  - (g) Department of Revenue.
  - (h) Commonwealth Office of Technology.
  - (i) State Property and Buildings Commission.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) Kentucky Employees Retirement Systems.
  - (l) Commonwealth Credit Union.
  - (m) State Investment Commission.
  - (n) Kentucky Housing Corporation.
  - (o) Kentucky Local Correctional Facilities Construction Authority.
  - (p) Kentucky Turnpike Authority.
  - (q) Historic Properties Advisory Commission.
  - (r) Kentucky Tobacco Settlement Trust Corporation.
  - (s) Kentucky Higher Education Assistance Authority.
  - (t) Kentucky River Authority.
  - (u) Kentucky Teachers' Retirement System Board of Trustees.
  - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
  - (a) Kentucky Department of Travel and Tourism.
    - 1. Division of Tourism Services.
    - 2. Division of Marketing and Administration.

3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
1. Division of Information Technology.
  2. Division of Human Resources.
  3. Division of Financial Operations.
  4. Division of Facilities Management.
  5. Division of Facilities Maintenance.
  6. Division of Customer Services.
  7. Division of Recreation.
  8. Division of Golf Courses.
  9. Division of Food Services.
  10. Division of Rangers.
  11. Division of Resort Parks.
  12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
  2. Division of Administrative Services.
  3. Division of Engineering.
  4. Division of Fisheries.
  5. Division of Information and Education.
  6. Division of Wildlife.
  7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
  2. Division of Buildings and Grounds.
  3. Division of Operational Services.
- (e) Kentucky State Fair Board.

1. Office of Administrative and Information Technology Services.
  2. Office of Human Resources and Access Control.
  3. Division of Expositions.
  4. Division of Kentucky Exposition Center Operations.
  5. Division of Kentucky International Convention Center.
  6. Division of Public Relations and Media.
  7. Division of Venue Services.
  8. Division of Personnel Management and Staff Development.
  9. Division of Sales.
  10. Division of Security and Traffic Control.
  11. Division of Information Technology.
  12. Division of the Louisville Arena.
  13. Division of Fiscal and Contract Management.
  14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
  2. Office of Research and Administration.
  3. Office of Governmental Relations and Tourism Development.
  4. Office of the Sports Authority.
  5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.

- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
  - 1. Division of Museums.
  - 2. Division of Oral History and Educational Outreach.
  - 3. Division of Research and Publications.
  - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
  - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
  - (a) Office of the Secretary.
  - (b) Department of Human Resources Administration.
  - (c) Office of Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Governmental Services Center.
  - (h) Department of Employee Insurance.
  - (i) Office of Diversity and Equality.
  - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.

- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 21. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
  - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
  - (b) Patented, patent, and proprietary medicines;
  - (c) Toilet, medicinal, and antiseptic preparations and solutions;
  - (d) Flavoring extracts and syrups;
  - (e) Denatured alcohol or denatured rum;
  - (f) Vinegar and preserved sweet cider;

- (g) Wine for sacramental purposes; and
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
- (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) "Bed and breakfast" means a one (1) family dwelling unit that:
  - (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
  - (b) Holds a permit under KRS Chapter 219; and
  - (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- (6) "Board" means the State Alcoholic Beverage and Cannabis Control Board created by KRS 241.030;
- (7) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (8) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;

- (9) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- (10) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- (11) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests;
- (12) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (14) "City administrator" means city alcoholic beverage control administrator;
- (15) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;



- (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power exclusively and which:
- (a) Has four (4) wheels;
  - (b) Is operated in a manner similar to that of a bicycle;
  - (c) Is equipped with a minimum of thirteen (13) seats for passengers;
  - (d) Has a unibody design;
  - (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
  - (f) Is used for commercial tour purposes; and
  - (g) Is operated by the vehicle owner or an employee of the owner;
- (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage and Cannabis Control;
- (18) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (20) "County administrator" means county alcoholic beverage control administrator;
- (21) "Department" means the Department of Alcoholic Beverage and Cannabis Control;
- (22) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (23) "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are

considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:

- (a) Prorated and allowed on each delivery;
  - (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
  - (c) Based on dollar volume or on the quantity of merchandise purchased;
- (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (25) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (26) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
- (27) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (29) "Election" means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
  - (b) Any other election not pertaining to alcohol;
- (30) "Field representative" means any employee or agent of the department who is

regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;

- (31) "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (32) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (35) "Limited restaurant" means:
  - (a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or
  - (b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244;
- (36) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or

description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;

- (37) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (38) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (39) "Minor" means any person who is not twenty-one (21) years of age or older;
- (40) "Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1243, 242.1244, or 242.1292;
- (41) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;
- (42) "Private club" means a nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;
- (43) "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;

- (44) "Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served. Notwithstanding the provisions of this subsection:
- (a) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; and
  - (b) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;
- shall be deemed a "qualified historic site" under this section;
- (45) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (46) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (47) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food;
- (48) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not;
- (49) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and

- any facility where alcoholic beverages are sold directly to the consumers;
- (50) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- (51) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required;
- (52) "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;
- (53) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (54) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited;
- (55) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (56) "Small farm winery" means a winery producing wines, in an amount not to exceed one hundred thousand (100,000) gallons in a calendar year;
- (57) "Souvenir package" means a special package of distilled spirits available from a licensed retailer that is:
- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
  - (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky;
- (58) "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires;

- (59) "State park" means a state park that has a:
- (a) Nine (9) or eighteen (18) hole golf course; or
  - (b) Full-service lodge and dining room, and may include a nine (9) or eighteen (18) hole golf course;
- (60) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures;
- (61) "Territory" means a county, city, district, or precinct;
- (62) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (63) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (64) "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (65) "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050, 242.125, or 242.1292 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?"
- (66) "Wholesale sale" means a sale to any person for the purpose of resale;
- (67) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (68) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes

champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and

- (69) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

➔Section 22. KRS 241.015 is amended to read as follows:

There is created a Department of Alcoholic Beverage and Cannabis Control, which shall constitute a statutory administrative department of the state government within the meaning of KRS Chapter 12. The department consists of the commissioner of alcoholic beverage and cannabis control and the Alcoholic Beverage and Cannabis Control Board. The commissioner shall head the department, shall be its executive officer, and shall have charge of the administration of the department and perform all functions of the department not specifically assigned to the board. The Governor shall appoint as commissioner a person with administrative experience in the field of alcoholic beverage and cannabis control. The commissioner shall be appointed for a term of four (4) years.

➔Section 23. KRS 241.020 is amended to read as follows:

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, cannabis, and cannabis products except that the collection of taxes shall be administered by the Department of Revenue.
- (2) A Division of Distilled Spirits, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.
- (3) A Division of Malt Beverages, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.



**(4) A Division of Cannabis, under the supervision of the board, shall administer the laws in relation to cultivation, processing, testing, and sale of cannabis and cannabis products under KRS Chapter 245.**

➔Section 24. KRS 241.030 is amended to read as follows:

The Alcoholic Beverage **and Cannabis** Control Board shall consist of the commissioner of alcoholic beverage **and cannabis** control and **three (3)**~~two (2)~~ persons appointed by the secretary of the Public Protection Cabinet with the approval of the Governor, who shall be persons with administrative experience in the field of alcoholic beverage **and cannabis** control and who shall serve for terms of four (4) years each. One (1) of such persons shall serve as director of the Division of Distilled Spirits, **one (1) of such persons**~~and the other~~ shall serve as director of the Division of Malt Beverages, **and one (1) of such persons shall serve as the director of the Division of Cannabis.** The commissioner shall be chairman of the board.

➔Section 25. KRS 2.015 is amended to read as follows:

Persons of the age of eighteen (18) years are of the age of majority for all purposes in this Commonwealth except for the purchase of alcoholic beverages, **the cultivation, purchase, use, and possession of cannabis,** and for purposes of care and treatment of children with disabilities, for which twenty-one (21) years is the age of majority, all other statutes to the contrary notwithstanding.

➔Section 26. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
  - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
  - (b) The patient or research subject at the direction and in the presence of the

practitioner;

- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and antisteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
  - 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
  - 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
  - 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
  - 1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
  3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
  - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

- (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
- (d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories;

- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
  - (a) Poses an explosion hazard;
  - (b) Poses a fire hazard; or
  - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Hydrocodone combination product" means a drug with:
  - (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
  - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of

its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

- (18) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (19) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (20) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (21) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
  - (b) By a practitioner, or by his or her authorized agent under his supervision, for

the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

- (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;

~~[(22) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:~~

- ~~(a) Industrial hemp as defined in KRS 260.850;~~
- ~~(b) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or~~
- ~~(c) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;]~~

(22)~~[(23)]~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;

(23)~~(24)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;

(24)~~[(25)]~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;

~~(25)~~~~(26)~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

~~(26)~~~~(27)~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
- (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
- (c) Opium poppy and poppy straw;
- (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
- (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;

~~(27)~~~~(28)~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

~~(28)~~~~(29)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except

its seeds;

(29)~~[(30)]~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(30)~~[(31)]~~ "Physical injury" has the same meaning it has in KRS 500.080;

(31)~~[(32)]~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(32)~~[(33)]~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(33)~~[(34)]~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(34)~~[(35)]~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;

(35)~~[(36)]~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary



preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(36)~~[(37)]~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;

(37)~~[(38)]~~ "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;

(38)~~[(39)]~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(39)~~[(40)]~~ "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;

(40)~~[(41)]~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other

species in the genus *salvia*;

~~(41)~~~~(42)~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

~~(42)~~~~(43)~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;

~~(43)~~~~(44)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

~~(44)~~~~(45)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexamabinol (HU-211); or any compound in the following structural classes:

- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,

JWH-122, JWH-200, and AM-2201;

- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not

substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

- (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
- (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
- (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-

piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

- (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

~~(45)~~~~(46)~~ "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

- (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
- (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
- (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);  
or

(d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;

~~(46)~~~~((47))~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

~~(47)~~~~((48))~~ "Telehealth" has the same meaning it has in KRS 311.550;

~~(48)~~~~((49))~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

~~(49)~~~~((50))~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;

~~(50)~~~~((51))~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and

~~(51)~~~~((52))~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 27. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

- (1) Any material, compound, mixture, or preparation which contains any quantity of the

following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: Acetylfentanyl; Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxidine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine; 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-piperidinyldene]-benzenesulfonamide (W-18); 4-chloro-N-[1-(2-phenylethyl)-2-piperidinyldene]-benzenesulfonamide (W-15);

- (2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphanol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of

isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; ~~[Marijuana;]~~ Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn;~~[Tetrahydrocannabinols;]~~ Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic drugs; or salvia;

- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid; and
- (5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
  - (a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);
  - (b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);
  - (c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or
  - (d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).

➔Section 28. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

- (1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating,



cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

It includes but is not limited to:

- (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining plants containing controlled substances~~[-marijuana]~~;
- (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

- (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
  - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
  - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing ~~[marijuana,]~~ cocaine~~[, hashish, or hashish oil]~~ into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens,~~[hashish heads,]~~ or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material~~[, such as marijuana cigarettes,]~~ that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
- (2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.
- (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in

violation of this chapter.

- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (5)
  - (a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.
  - (b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:
    - 1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and
    - 2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.
  - (c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.
- (6)
  - (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.

- (b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.
- (7) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 29. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869:

- (1) "Agribusiness" has the same meaning as in KRS 154.32-010;
- (2) "Certified seed" means industrial hemp seed, including but not limited to Kentucky heritage hemp seed, that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;
- (3) "Commission" means the Industrial Hemp Commission created by KRS 260.857;
- (4) "Grower" means any person licensed to grow industrial hemp by the commission pursuant to KRS 260.854;
- (5) "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;
- (6) (a) "Industrial hemp" means all parts and varieties of the plant *cannabis sativa*, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.
- (b) "Industrial hemp" as defined and applied in KRS 260.850 to 260.869 is excluded from the definition of *cannabis*~~[*marijuana*]~~ in *Section 1 of this Act*~~[*KRS 218A.010*]~~;
- (7) "Kentucky heritage hemp seed" means industrial hemp seed that possesses

characteristics of the unique and specialized industrial hemp seed variety that originated in the Commonwealth and has been recognized historically as a signature export of this state;

- (8) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three-tenths of one percent (0.3%); and
- (9) "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

➔Section 30. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:
  - (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
    - 1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
    - 2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
    - 3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as

defined in KRS 222.005;

4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
  5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
  6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
  7. Abandons or exploits the child;
  8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
  9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or
- (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);
- (3) "Aggravated circumstances" means the existence of one (1) or more of the

following conditions:

- (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
  - (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
  - (c) The parent has sexually abused the child and has refused available treatment;
  - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
  - (e) The parent has caused the child serious physical injury;
- (4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
- (5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;
- (6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

- (7) "Cabinet" means the Cabinet for Health and Family Services;
- (8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
- (10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;
- (14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to



continue family and community contact;

- (15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (19) "Department" means the Department for Community Based Services;
- (20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;
- (22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;
- (24) "Eligible youth" means a person who:

- (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
  - (b) Is eighteen (18) years of age to nineteen (19) years of age; and
  - (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;
- (28) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (29) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- (30) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:
- (a) Electronic monitoring;
  - (b) Drug and alcohol screening, testing, or monitoring;
  - (c) Day or evening reporting centers;
  - (d) Reporting requirements;
  - (e) Community service; and
  - (f) Rehabilitative interventions such as family counseling, substance abuse

treatment, restorative justice programs, and behavioral or mental health treatment;

- (31) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;
- (32) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- (33) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (34) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (35) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (36) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (37) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for

appropriate family engagement;

- (38) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (39) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (40) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (41) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (42) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (43) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- (44) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (45) "Parent" means the biological or adoptive mother or father of a child;
- (46) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (47) "Petition" means a verified statement, setting forth allegations in regard to the child,

which initiates formal court involvement in the child's case;

(48) "Physical injury" means substantial physical pain or any impairment of physical condition;

(49) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(50) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(51) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years

of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
  - (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or
  - (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;
- (52) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);
- (53) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- (54) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12)

hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

- (55) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;
- (56) "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (57) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (58) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;
- (59) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- (60) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- (61) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or

other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(62) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(63) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(64) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual Runaway;
3. Habitual truant;
4. Tobacco offenses as provided in KRS 438.305 to 438.340;~~and~~
5. Alcohol offenses as provided in KRS 244.085; and
6. Cannabis offenses as provided in Section 4 of this Act.

(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;

(65) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(66) "Transitional living support" means all benefits to which an eligible youth is



entitled upon being granted extended or reinstated commitment to the cabinet by the court;

- (67) "Transition plan" means a plan that is personalized at the direction of the youth that:
- (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and
  - (b) Is as detailed as the youth may elect;
- (68) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:
- (a) Who was brought before the court and made subject to the order;
  - (b) Whose future conduct was regulated by the order;
  - (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
  - (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;
- (69) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (70) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and
- (71) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔Section 31. KRS 610.010 is amended to read as follows:

- (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;
- (2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:
  - (a) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
  - (b) Is an habitual truant from school;

- (c) Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;
  - (d) Is dependent, neglected, or abused;
  - (e) Has committed an alcohol offense in violation of KRS 244.085;
  - (f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340;~~f~~  
~~or~~
  - (g) **Has committed a cannabis offense as provided in Section 4 of this Act; or**
  - (h)** Is mentally ill.
- (3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.
  - (4) Actions brought under subsection (2)(a), (b), (c), (e), and (f) of this section shall be considered to be status offense actions.
  - (5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.
  - (6) Actions brought under subsection (2)(**h**)~~(g)~~ of this section shall be considered to be mental health actions.
  - (7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.
  - (8) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.
  - (9) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for the child's custody; however, if the case involves allegations of

dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

- (10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.
- (11) Nothing in this chapter shall prevent the court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in KRS 610.265 and 630.080.
- (12) Except as provided in KRS 635.060(4), 630.120(5), or 635.090, nothing in this chapter shall confer upon the District Court or the family division of the Circuit Court, as appropriate, jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or committed to or in the custody of the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or committed to or in the custody of the cabinet.

- (13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.
- (14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, completes a disposition pursuant to KRS 635.060, or reaches the age of eighteen (18) years.

➔Section 32. KRS 630.020 is amended to read as follows:

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

- (1) Has been an habitual runaway from his parent or person exercising custodial control or supervision of the child;
- (2) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
- (3) Has been an habitual truant from school;
- (4) Has committed a tobacco offense under KRS 438.305 to 438.340;~~[-or]~~
- (5) Has committed an alcohol offense under KRS 244.085; or
- (6) *Has committed a cannabis offense under Section 4 of this Act.***

➔Section 33. KRS 218A.276 is amended to read as follows:

- (1) A court may request the Division of Probation and Parole to perform a risk and needs assessment for any person found guilty of possession of~~[-marijuana pursuant to KRS 218A.1422,]~~ synthetic drugs pursuant to KRS 218A.1430~~[-,]~~ or salvia pursuant to KRS 218A.1451. The assessor shall make a recommendation to the court as to whether treatment is indicated by the assessment, and, if so, the most appropriate treatment or recovery program environment. If treatment is indicated for the person, the court may order him or her to the appropriate treatment or recovery

program as indicated by the assessment that will effectively respond to the person's level of risk, criminal risk factors, and individual characteristics as designated by the secretary of the Cabinet for Health and Family Services where a program of treatment or recovery not to exceed ninety (90) days in duration may be prescribed. The person ordered to the designated treatment or recovery program shall present himself or herself for registration and initiation of the treatment or recovery program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated treatment or recovery program within the specified time, or if any time during the program of treatment or recovery prescribed, the authorized director of the treatment or recovery program finds that the person is unwilling to participate in his or her treatment, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment, or may rescind the treatment order and impose a sentence for the possession offense. Upon discharge of the person from the treatment or recovery program by the secretary of the Cabinet for Health and Family Services, or his or her designee, prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his or her designee, shall notify the sentencing court of the date of such discharge from the treatment or recovery program.

- (2) The secretary of the Cabinet for Health and Family Services, or his or her designee, shall inform each court of the identity and location of the treatment or recovery program to which a person sentenced by that court under this chapter shall be initially ordered.
- (3) In the case of a person ordered to an inpatient facility for treatment pursuant to this chapter, transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself or herself to the facility within

- five (5) days of sentencing by reason of physical infirmity or financial incapability.
- (4) The sentencing court shall immediately notify the designated treatment or recovery program of the sentence and its effective date.
  - (5) The secretary of the Cabinet for Health and Family Services, or his or her designee, may authorize transfer of the person from the initially designated treatment or recovery program to another treatment or recovery program for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating treatment or recovery program and shall be notified by the secretary or his or her designee of the new treatment or recovery program to which the person was transferred.
  - (6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Health and Family Services, unless the person and the treatment or recovery program shall arrange otherwise.
  - (7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation, presumptive probation, or conditional discharge.
  - (8) In the case of any person who has been convicted of possession of marijuana, synthetic drugs, or salvia, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.
  - (9) If the court voids a conviction under this section, the court shall order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, except as provided in KRS

27A.099. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or charge that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the order that the required sealing action has been completed.

- (10) After the sealing of the record, the proceedings in the matter shall not be used against the defendant. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is sealed shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.
- (11) Inspection of the sealed records may thereafter be permitted by the court or upon a motion by the person who is the subject of the records and only to those persons named in the motion.

➔Section 34. KRS 630.120 is amended to read as follows:

- (1) All dispositional hearings conducted under this chapter shall be conducted in accordance with the provisions of KRS 610.060 and 610.070. In addition, the court shall, at the time the dispositional order is issued:
  - (a) Give the child adequate and fair written warning of the consequences of the violation of the order; and
  - (b) Provide the child and the child's attorney, and parent, or legal guardian a written statement setting forth the conditions of the order and the consequences for violating the order.

An order issued pursuant to this section is a valid court order and any child violating that order may be subject to the provisions of KRS 630.080(4).

- (2) The court shall consider all appropriate local remedies to aid the child and the child's family subject to the following conditions:
  - (a) Residential and nonresidential treatment programs for status offenders shall be



community-based and nonsecure; and

- (b) With the approval of the education agency, the court may place the child in a nonsecure public or private education agency accredited by the Department of Education.
- (3) At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports, shall be received by the court provided that the child, the child's parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause, the court may allow the admission of hearsay evidence.
- (4) The court shall affirmatively determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.
- (5) The court may order the child and the child's family to participate in any programs which are necessary to effectuate a change in the child and the family.
- (6) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and the child's family, the court may, except as provided in subsection (7) of this section, commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the child and the child's family subject to the following conditions:
  - (a) Treatment programs for status offenders shall be, unless excepted by federal law, community-based and nonsecure;
  - (b) The cabinet may place the child in a nonsecure public or private education agency accredited by the department of education;
  - (c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the

parents fail to participate in the cabinet's treatment programs; and

- (d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court which may object to such discharge by holding court review of the commitment under KRS 610.120.

- (7) No child adjudicated guilty of an alcohol offense under KRS 244.085, ~~or~~ a tobacco offense under KRS 438.305 to 438.340, or a cannabis offense under Section 4 of this Act shall be committed as a result of that adjudication.

➔Section 35. KRS 131.650 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the department may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the Department of Revenue, and that meet the requirements of KRS 131.652.
- (2) For purposes of this section, a taxpayer may be included on a list if:
  - (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and
  - (b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.
- (3) In the case of listed taxpayers that are business entities, the Department of Revenue may also list the names of responsible persons assessed pursuant to KRS 136.565, ~~138.885,~~ 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.
- (4) Before any list is published under this section, the department shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

➔Section 36. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, and a Department of Alcoholic Beverage and Cannabis Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) There is established within the Public Protection Cabinet an Office of Occupations and Professions, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (3) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
  - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
  - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.
- (4) The following agencies are attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330:
  - (a) Crime Victims Compensation Board;
  - (b) Board of Claims;

- (c) Kentucky Board of Tax Appeals;
- (d) Kentucky Boxing and Wrestling Authority; and
- (e) Kentucky Horse Racing Commission.

➔Section 37. KRS 15.300 is amended to read as follows:

- (1) As used in this section, "consent order" means the consent order of December 21, 1998, agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket Number 98-CI-01579, Franklin Circuit Court.
- (2) There is created the Tobacco Master Settlement Agreement Compliance Advisory Board in the Department of Law. The board shall be composed of six (6) members as follows:
  - (a) The Attorney General, or the Attorney General's designee;
  - (b) The secretary of the Cabinet for Health and Family Services, or the secretary's designee;
  - (c) The Commissioner of Agriculture, or the Commissioner's designee;
  - (d) The secretary of the Public Protection Cabinet, or the secretary's designee; and
  - (e) Two (2) citizens at large appointed by the Attorney General.
- (3) The citizen members of the board shall serve for terms of one (1) year and until their successors are appointed. The citizen members shall be eligible for successive terms on the board.
- (4) The board shall annually elect a member to serve as its chair and shall meet at least quarterly on a date set by the board. Board members shall be reimbursed for necessary expenses incurred in serving on the board.
- (5) The board may adopt rules governing the conduct of its meetings, the creation of meeting agendas, and other procedural matters it deems necessary. The board may adopt reporting forms, which shall be developed in consultation with participating agencies.
- (6) The Office of the Attorney General shall:

- (a) Enter into a memorandum of agreement with the Department of Public Health of the Cabinet for Health and Family Services, the Department of Alcoholic Beverage and Cannabis Control in the Public Protection Cabinet, and the Department of Agriculture to identify and report possible violations of the consent order;
  - (b) Attempt to secure funding under the master settlement agreement to reimburse the agencies specified in paragraph (a) of this subsection for any compliance activity that they perform; and
  - (c) Provide necessary funding and staff for administrative expenses related to the operation of the board. The board may request assistance from other state agencies.
- (7) The Tobacco Master Settlement Agreement Compliance Advisory Board shall:
- (a) Identify activities for which training is required for personnel of the state agencies specified in paragraph (a) of subsection (6) of this section that are responsible for identifying and reporting possible violations of the consent order;
  - (b) Determine eligible compliance training costs and seek reimbursement for the costs; and
  - (c) Notify the appropriate tobacco manufacturer, in writing, of any alleged violation of the consent order and request a response and, if applicable, a corrective action plan within thirty (30) days from the date of the notice. If the manufacturer fails to respond or to satisfactorily resolve the matter, the board shall review the matter at its next meeting and may refer the matter to the Office of the Attorney General for enforcement action, if warranted.
- ➔Section 38. KRS 15.380 is amended to read as follows:
- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

- (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
  - (b) City, county, and urban-county police officers;
  - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
  - (d) State or public university police officers appointed pursuant to KRS 164.950;
  - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
  - (f) Airport safety and security officers appointed under KRS 183.880;
  - (g) Department of Alcoholic Beverage and Cannabis Control field representatives and investigators appointed under KRS 241.090;
  - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
  - (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
- (a) Deputy coroners;
  - (b) Deputy constables;
  - (c) Deputy jailers;

- (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
  - (e) Officers appointed under KRS 61.360;
  - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
  - (g) Private security officers;
  - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
  - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
  - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
  - (b) Coroners;
  - (c) Constables;
  - (d) Jailers;
  - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
  - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

➔Section 39. KRS 15.398 is amended to read as follows:

The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to KRS 15.380 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all instances the provisions of all statutes specified below shall prevail:

- (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- (3) KRS Chapter 78, relating to county police;
- (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county police;
- (5) KRS Chapter 183, relating to airport safety and security officers;
- (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;
- (7) KRS Chapter 18A, relating to all state peace officers;
- (8) KRS 241.090, relating to Department of Alcoholic Beverage and Cannabis Control field representatives and investigators;
- (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- (10) Any other statutes affecting peace officers not specifically cited herein.

➔Section 40. KRS 15A.340 is amended to read as follows:

- (1) As used in this section and KRS 15A.342 and 15A.344, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.
- (2) The Office of Drug Control Policy shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. The Office of Drug Control Policy may expend endowment principal, if necessary in its discretion, to carry out the purposes of this section and KRS 15A.342 and 15A.344. These expenditures from the endowment principal are hereby appropriated for this purpose.
- (3) (a) The Office of Drug Control Policy shall oversee the activities specified in this section and KRS 15A.342 and 15A.344 and provide administrative support to the seventeen (17) member KY-ASAP Board, which is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:



1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;
2. One (1) member representing the Kentucky Health Department Association, or a designee;
3. The secretary of the Cabinet for Health and Family Services, or designee;
4. The secretary of the Justice and Public Safety Cabinet, or a designee;
5. One (1) member representing the Division of Behavioral Health within the Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, or a designee;
6. The commissioner of the Department for Public Health, Cabinet for Health and Family Services, or a designee;
7. The commissioner of the Department of Alcoholic Beverage and Cannabis Control, or a designee;
8. The commissioner of the Department of Education;
9. The director of the Administrative Office of the Courts, or a designee;
10. One (1) member representing the Kentucky Association of Regional Programs, or a designee;
11. One (1) member representing the Kentucky Heart Association, or a designee;
12. One (1) member representing the Kentucky Lung Association, or a designee;
13. One (1) member representing the Kentucky Cancer Society, or a designee;
14. Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and
15. Two (2) members representing private community-based organizations,

whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.

- (b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.
- (c) The board shall meet at least quarterly. A quorum of nine (9) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (d) The board shall:
  - 1. Oversee deposits and expenditures from the endowment;
  - 2. Request, in its discretion, an audit relating to the expenditure of endowment funds;
  - 3. Receive quarterly reports from the commissioner of the Department of Alcoholic Beverage and Cannabis Control regarding KY-ASAP's activities;
  - 4. Progress toward development and implementation of the strategic plan;
  - 5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;
  - 6. Recommend matters for review and analysis by KY-ASAP; and
  - 7. Perform other duties as necessary for the oversight of KY-ASAP.
- (4) The Office of Drug Control Policy and KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult

populations.

- (5) The Office of Drug Control Policy and KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

➔Section 41. KRS 17.150 is amended to read as follows:

- (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the intellectually disabled; Department of Kentucky State Police; state fire marshal; Board of Alcoholic Beverage and Cannabis Control; Cabinet for Health and Family Services; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice and the Department for Public Advocacy, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:
- (a) Install and maintain records needed for reporting data required by the cabinet;
  - (b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;
  - (c) Give the cabinet or its accredited agent access for purpose of inspection; and
  - (d) Cooperate with the cabinet to the end that its duties may be properly performed.
- (2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:
- (a) The name or identity of any confidential informant or information which may

- lead to the identity of any confidential informant;
- (b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;
  - (c) Information which may endanger the life or physical safety of law enforcement personnel; or
  - (d) Information contained in the records to be used in a prospective law enforcement action.
- (3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.
- (4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice and Public Safety Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice and Public Safety Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.
- (5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall

be applicable to this section.

- (6) The secretary of justice and public safety shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of Kentucky State Police.
- (7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice and public safety, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice and public safety.

➔Section 42. KRS 61.592 is amended to read as follows:

- (1) (a) "Hazardous position" for employees participating in the Kentucky Employees Retirement System, and for employees who begin participating in the County Employees Retirement System before September 1, 2008, means:
  - 1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;
  - 2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates; and

3. Positions of employees who elect coverage under KRS 196.167(3)(b)2. and who continue to provide educational services and support to inmates as a Department of Corrections employee.
- (b) "Hazardous position" for employees who begin participating in the County Employees Retirement System on or after September 1, 2008, means police officers and firefighters as defined in KRS 61.315(1), paramedics, correctional officers with duties that routinely and regularly require face-to-face contact with inmates, and emergency medical technicians if:
  1. The employee's duties require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning; and
  2. The employee's duties are not primarily clerical or administrative.
- (c) The effective date of participation under hazardous duty coverage for positions in the Department of Alcoholic Beverage and Cannabis Control shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.
- (2) (a) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by

subsection (1) of this section. This process shall not be required for employees who elect coverage under KRS 196.167(3)(b)2.

- (b) Each employer desiring to provide hazardous duty coverage to employees who begin participating in the County Employees Retirement System on or after September 1, 2008, may request that the board approve hazardous duty coverage for those positions that meet the criteria set forth in subsection (1)(b) of this section. Each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1)(b) of this section for which coverage is requested and a job description for each position or employee. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. Each employer shall also certify, under penalty of perjury in accordance with KRS Chapter 523, that each employee's actual job duties are accurately reflected in the job description provided to the system. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as defined in subsection (1)(b) of this section. The board shall have the authority to remove any employee from hazardous duty coverage if the board determines the employee is not working in a hazardous duty position or if the employee is classified in a hazardous duty position but has individual job duties that do not meet the definition of a hazardous duty position or are not accurately reflected in the job descriptions filed by the employer with the system.
- (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an employee participating in the Kentucky Employees Retirement System who is

determined by the system to be working in a hazardous position in accordance with subsection (2) of this section, shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.

- (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565.
- (c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the



employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous. The provisions of this paragraph shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.

- (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.505 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.
- (6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

➔Section 43. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage and Cannabis Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the

Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

- (2) The minimum sum of the bond for the following offices shall be as follows:

|  |          |
|--|----------|
| Secretary of State .....   | \$10,000 |
| Attorney General .....   | 10,000   |
| State Treasurer .....  | 300,000  |
| Secretary for economic development .....                             | 10,000   |
| Commissioner of Agriculture .....                                    | 10,000   |
| Secretary for education .....  | 10,000   |
| Auditor of Public Accounts .....                                     | 25,000   |
| Adjutant general .....   | 10,000   |
| Secretary of finance and administration .....                        | 100,000  |
| Commissioner of revenue .....  | 50,000   |
| Secretary of transportation .....                                    | 50,000   |
| Commissioner of highways .....                                       | 50,000   |
| Secretary of justice and public safety .....                         | 50,000   |
| Secretary of corrections .....                                       | 25,000   |
| Commissioner for public health services .....                        | 10,000   |
| Secretary of labor .....   | 5,000    |
| Commissioner for natural resources .....                             | 50,000   |
| State librarian .....  | 5,000    |
| Commissioner of alcoholic beverage <u>and cannabis</u> control ..... | 10,000   |
| Commissioner of financial institutions .....                         | 25,000   |
| Secretary for energy and environment .....                           | 50,000   |
| Commissioner of insurance .....                                      | 50,000   |
| Commissioner of vehicle regulation .....                             | 10,000   |
| Commissioner of fish and wildlife resources .....                    | 5,000    |

|  |         |
|--|---------|
| Secretary for health and family services .....                                 | 20,000  |
| Commissioner of environmental protection .....                                 | 10,000  |
| Secretary of public protection .....   | 10,000  |
| Secretary of tourism, arts and heritage .....                                  | 25,000  |
| Commissioner for community based services .....                                | 20,000  |
| Member of the Public Service Commission .....                                  | 10,000  |
| Member of State Fair Board .....   | 10,000  |
| Member of Fish and Wildlife Resources Commission .....                         | 1,000   |
| Member of Kentucky Board of Tax Appeals .....                                  | 10,000  |
| Associate member of Alcoholic Beverage <u>and Cannabis</u> Control Board ..... | 5,000   |
| Commissioner of local government .....   | 100,000 |

➔Section 44. KRS 131.1815 is amended to read as follows:

- (1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter 243, is a delinquent taxpayer as defined in subsection (2) of this section, the department may, after giving notice as provided in subsection (3) of this section, submit the name of the taxpayer to the Department of Alcoholic Beverage and Cannabis Control for revocation of any license issued under KRS Chapter 243.
- (2) Any of the following situations shall be sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:
  - (a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the manufacture, sale, transportation, or distribution of alcoholic beverages, for which all protest and appeal rights granted by law have expired, and the taxpayer has been contacted by the department concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the department;
  - (b) When a taxpayer has not filed a required tax return as of ninety (90) days after

the due date or after the extended due date, and the taxpayer has been contacted by the department concerning the delinquent return; or

- (c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS Chapter 243 held a similar position in a business whose license was revoked as a "delinquent taxpayer," and the tax liability remains unpaid as of ninety (90) days after the due date.
- (3) At least twenty (20) days before submitting a taxpayer's name to the Department of Alcoholic Beverage and Cannabis Control as provided in subsection (1) of this section, the department shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance that must be satisfied in order to prevent the submission of his name to the Department of Alcoholic Beverage and Cannabis Control as a delinquent taxpayer.

➔Section 45. KRS 211.285 is amended to read as follows:

- (1) There is hereby created the malt beverage educational fund which shall provide moneys on a matching basis for educational information and materials that deter or eliminate underage drinking. The fund shall consist of moneys generated from one percent (1%) of the excise tax collected from the sale and distribution of malt beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected from distributors of malt beverages under KRS 243.884.
- (2) The malt beverage educational fund shall be established in the State Treasury as a trust and revolving account under KRS 45.253. Moneys in the account shall be distributed by the State Treasurer to the Malt Beverage Educational Corporation, a nonprofit organization that is organized under the laws of this state, upon the authorization of the secretary of the Cabinet for Health and Family Services. The moneys shall be awarded to the corporation solely to fund educational programs to

deter or eliminate underage drinking.

- (3) The secretary of the Cabinet for Health and Family Services shall authorize that moneys from the fund be disbursed to the corporation upon the secretary's receipt of a certification from the corporation showing the moneys the corporation has received from malt beverage distributors and other private sources since the last certification. The moneys disbursed from the fund shall be equal to the contributions that the corporation has received from its members and other private sources during that period. The moneys in the fund shall be disbursed in accordance with a schedule established by the secretary, and shall be disbursed until the moneys in the fund are exhausted or until the moneys in the fund lapse in accordance with subsection (4) of this section, whichever comes first.
- (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at the end of the fiscal year and shall be returned to the general fund.
- (5) As a condition of receiving the governmental funds, the corporation's board of directors shall include the following among its directors:
  - (a) The Governor or his or her designee;
  - (b) The Attorney General or his or her designee;
  - (c) The President of the Senate or his or her designee;
  - (d) The Speaker of the House or his or her designee;
  - (e) The secretary of the Cabinet for Health and Family Services or his or her designee; and
  - (f) The commissioner of the Department of Alcoholic Beverage and Cannabis Control or his or her designee.
- (6) All expenditures of moneys from the fund shall be approved by a majority of those persons set out in subsection (5)(a) to (f) of this section. If the moneys from the fund are not expended in their entirety, any moneys that remain unused by the corporation at the end of the fiscal year shall be returned to the general fund.

- (7) Any moneys from the fund that are not expended shall be returned to the general fund upon the dissolution of the corporation.
- (8) Any high school in the Commonwealth of Kentucky that was registered with the Department of Education as of July 1, 1997, may make an application to the Malt Beverage Education Corporation by February 28 of each year and shall be granted a minimum of five hundred dollars (\$500) annually from the funds contributed by the malt beverage educational fund for the single purpose of supporting "Project Graduation" events.

➔Section 46. KRS 241.065 is amended to read as follows:

- (1) The number of quota retail package licenses issued by the Alcoholic Beverage and Cannabis Control Board to licensees in counties containing cities of the first class, and including such cities, shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (2) The number of quota retail drink licenses issued by the Alcoholic Beverage and Cannabis Control Board to licensees in counties containing cities of the first class, and including such cities shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (3) In order that a fixed and approved standard of population as prescribed in subsections (1) and (2) of this section may be adopted the annual estimates of population as determined by chambers of commerce of cities of the first class shall be used in every year except a census year, and during a census year the United States government census figures of population shall be controlling.

➔Section 47. KRS 241.075 is amended to read as follows:

- (1) The State Alcoholic Beverage and Cannabis Control Board shall, for the purpose of regulating the location of quota retail package licenses and quota retail drink licenses in cities of the first class or consolidated local governments, divide such cities or consolidated local governments into "downtown business areas" and

"combination business and residential areas."

- (2) No quota retail package or quota retail drink license shall be granted or issued to any licensee who proposes to sell distilled spirits and wine by the package or by the drink at a location within seven hundred (700) feet of the location of any similar establishment in any combination business and residential area, nor shall such license be granted or issued to any licensee who proposes to operate at a location in a combination business and residential area within seven hundred (700) feet of a similar establishment located in a downtown business area. This section shall not affect location of such establishments in downtown business areas of such cities or consolidated local governments.
- (3) The distance between locations of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of any such place of business. The measurement shall be taken from the entrance of the existing licensed premises to the entrance of any proposed location.
- (4) The location of all establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on June 17, 1954, shall not be affected by the terms of this section and this section shall not apply to existing licensed locations or to the renewal of licenses therefor, or to transfers thereof. The distance limitation prescribed by this section shall not affect any existing licensed location, nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through failure of the landlord to renew such lease may be transferred to a location which is not closer than half the distance between the existing licensed premises and the nearest similar

licensed premises.

➔Section 48. KRS 243.025 is amended to read as follows:

- (1) All of the fees paid into the State Treasury for licenses issued under KRS 243.030 and 243.040 shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage and Cannabis Control.
- (2) All fees associated with the department's server training program, except for board-ordered fees, shall be collected on a cost recovery basis and shall be credited to the revolving trust and agency account established under subsection (1) of this section.
- (3) These moneys shall be used solely for the administration and enforcement of KRS Chapters 241, 242, 243, and 244. The moneys in the account shall not lapse at the close of the fiscal year.

➔Section 49. KRS 243.038 is amended to read as follows:

- (1) The Department of Alcoholic Beverage and Cannabis Control shall not issue a license to an applicant authorized to apply for a license to sell alcoholic beverages by the drink under KRS 243.039 unless the applicant and the golf course, if different from the applicant, agree to voluntarily comply with the provisions of KRS Chapter 344, whether or not the applicant and the golf course would otherwise be covered by the provisions of KRS Chapter 344.
- (2) The department shall revoke or suspend any license issued under KRS 243.039 if the department or the Kentucky Commission on Human Rights makes a finding that the applicant or the golf course, if different from the applicant, has violated a requirement specified in this section.

➔Section 50. KRS 243.075 is amended to read as follows:

- (1) (a) Notwithstanding the provisions of KRS 243.060 and 243.070, in any qualified city in which the discontinuance of prohibition is effective by virtue of a local option election held under KRS Chapter 242, the governing body of the city and the governing body of the county containing a qualified city is authorized



to impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment therein licensed to sell alcoholic beverages.

- (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.
  - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
    - 1. A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and
    - 2. In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2) (a) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.060 or 243.070, a city or county that is moist through a local option election held under KRS 242.1244, or that issues licenses under KRS 243.072 may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises.
- (b) The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.

- (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.
  - (d) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (3) (a) For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.
- (b) For any new ordinance enacted pursuant to KRS 243.072 after July 15, 2014, the fee authorized by subsection (2) of this section shall be enacted within two (2) years of the date of the enactment of an ordinance pursuant to KRS 243.072.
- (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:
- (a) Policing;
  - (b) Regulation; and
  - (c) Administration;
- as a result of the sale of alcoholic beverages within the city or county.
- (5) (a) The Kentucky Department of Alcoholic Beverage and Cannabis Control shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition,

may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.

- (b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.
- (6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:
  - (a) Deposited into a segregated fund of the city or county;
  - (b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and
  - (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.
- (7) Any city or county found by a court to have violated the provisions of this section shall:
  - (a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;
  - (b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and
  - (c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by

a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.

- (8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.
- (9) (a) As used in this section, "qualified city" means a city on the registry maintained by the Department for Local Government under paragraph (b) of this subsection.
- (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the third or fourth class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 51. KRS 243.090 is amended to read as follows:

- (1) All licenses issued by the department, except special event licenses, temporary licenses, or licenses listed in subsection (5) of this section, shall be valid for a period of no more than a year. The department shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department of Alcoholic Beverage and Cannabis Control.
- (2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses issued after January 1, 2017, by a county or city administrator shall be valid for a period of no more than a year and shall be renewable upon the date established by the department for the expiration of state licenses issued for premises located in that county or city. During the first year following July 15, 2016, if the new date for renewal for the licensee does not occur on the date

established by the department for the expiration of the licensee's state license, the city or county administrator shall either:

1. Prorate the cost of the renewed license by proportionally reducing the cost of the renewed license if the new date for the renewal occurs prior to the expiration of a previous license; or
  2. Provide a prorated provisional local license to cover any period of time between the expiration of the previous license and the new date for renewal if the new date for renewal occurs after the expiration of the licensee's previous license.
- (b) Paragraph (a) of this subsection shall not apply to licenses issued by a consolidated local government, special event licenses, temporary licenses, or licenses listed in subsection (5) of this section.
- (3) When any person applies for a new license authorized under KRS Chapters 241 to 244, he or she shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (4) The renewal by the department of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.
- (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew their licenses for either a one (1) year term or a two (2) year term.

➔Section 52. KRS 243.360 is amended to read as follows:

- (1) Any person, corporation, partnership, or any other entity, except an applicant for the

same license for the same premises, or an applicant for an out-of-state malt beverage supplier's license, limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state distilled spirits and wine supplier's license, micro out-of-state distilled spirits and wine supplier's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a special nonbeverage alcohol license, a transporter's license, a special Sunday drink license, or a special temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.

- (2) The notice shall conform in all material respects to the following requirements:
  - (a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;
  - (b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and
  - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverage and Cannabis Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."
- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

➔Section 53. KRS 243.480 is amended to read as follows:

- (1) Upon proceedings for the revocation of any license under KRS 243.520, the

Alcoholic Beverage and Cannabis Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage and Cannabis Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, wineries, and brewers, one thousand dollars (\$1,000) per day; wholesale liquor licensees, four hundred dollars (\$400) per day; wholesale beer licensees, four hundred dollars (\$400) per day; retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars (\$50) per day; and all remaining licensees, fifty dollars (\$50) per day.

- (2) Payments in lieu of suspension or for board-ordered agency server training, collected on a cost recovery basis, collected by the Alcoholic Beverage and Cannabis Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.
- (3) In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the department's server training program.
- (4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

➔Section 54. KRS 243.490 is amended to read as follows:

- (1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the Department of Revenue

relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage and Cannabis Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

- (2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage and Cannabis Control may refuse to issue or renew the license to the applicant.

➔Section 55. KRS 243.895 is amended to read as follows:

- (1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage and Cannabis Control, and with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.



- (2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50).

➔Section 56. KRS 244.050 is amended to read as follows:

- (1) No retail licensee shall give away any alcoholic beverage in any quantity or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.0305, 243.155, 243.157, and subsection (2) of this section.
- (2) The holder of a quota retail drink license, a quota retail package license, an NQ2 license, or a distillery license may, after acquiring a sampling license, allow customers to sample, free of charge, distilled spirits and wine under the following conditions:
- (a) Free sampling shall be permitted only on licensed premises and by licensees holding a sampling license, during regular business hours; and
  - (b) Except as authorized by KRS 243.0305, a licensee shall limit a customer to:
    - 1. One (1) ounce of free distilled spirits samples per day; and
    - 2. Six (6) ounces of free wine samples per day.
- (3) Retailers holding a sampling license shall:
- (a) Notify the Department of Alcoholic Beverage and Cannabis Control at least seven (7) days in advance of conducting a free sampling event; and
  - (b) Limit a free sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.
- (4) In addition to free sampling, a quota retail package licensee holding a sampling license may also sell sample distilled spirits and wine under the following conditions:
- (a) Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours; and
  - (b) A licensee shall limit a customer to purchased samples totaling no more than:
    - 1. Two (2) ounces of distilled spirits per day; and

2. Nine (9) ounces of wine per day.
- (5) A quota retail package licensee holding both a sampling license and a nonquota retail malt beverage package license may also sell samples of malt beverages under the following conditions:
  - (a) Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours;
  - (b) A licensee shall limit a customer to no more than sixteen (16) ounces of malt beverages per day;
  - (c) Nothing in this subsection shall allow a quota retail package licensee to provide a customer samples of malt beverages free of charge;
  - (d) The retail price of a sample shall not be less than a licensee's purchase cost of the sample; and
  - (e) A licensee, supplier, or individual shall not request, require, or allow a distributor to provide malt beverages free of charge or participate in any activity allowed under this subsection.
- (6) No customer shall be allowed to receive a combination of free and purchased samples totaling more than:
  - (a) Two (2) ounces of distilled spirits per day; and
  - (b) Nine (9) ounces of wine per day.
- (7) Samples sold under subsections (4) and (5) of this section shall not constitute drink sales.

➔Section 57. KRS 244.167 is amended to read as follows:

- (1) It is unlawful:
  - (a) For any distiller, rectifier, winery, brewer, or importer to solicit, accept, or fill any order for any distilled spirits, wine, or malt beverage from any wholesaler or distributor in the Commonwealth of Kentucky unless the supplier is the primary source of supply for the brand of alcoholic beverage sold or sought to

- be sold;
- (b) For any wholesaler, distributor, or any other licensee in this Commonwealth to order, purchase, or receive any alcoholic beverage from any supplier unless the supplier is the primary source of supply for the brand ordered, purchased, or received;
  - (c) For a retailer to order, purchase, or receive any distilled, vinous, or malt alcoholic beverage from any source other than any of the following:
    - 1. A wholesaler or distributor who has purchased the brand from the primary source of supply; or
    - 2. A wholesaler or distributor who is the designated representative of the primary source of supply in this Commonwealth and who has purchased the alcoholic beverage from the designated representative of the primary source of supply within or without this Commonwealth; and
  - (d) For alcoholic beverages to be transported from a wholesaler's or distributor's warehouse within twenty-four (24) hours of the time they are unloaded.
- (2) The Department of Alcoholic Beverage and Cannabis Control may suspend for a period not to exceed one (1) year the license of any wholesaler, distributor, or retailer who violates the provisions of this section.
- (3) Upon determination by the Department of Alcoholic Beverage and Cannabis Control that a primary source of supply has violated the provisions of this section, no wholesaler, distributor, or retailer may accept any shipment of alcoholic beverages from the primary source of supply for a period of one (1) year.
- (4) For the purposes of this section, "primary source of supply" or "supplier" means the distiller, producer, brewer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the

United States of the foreign distiller, producer, bottler, or owner.

➔Section 58. KRS 339.230 is amended to read as follows:

A minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age may be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation, except:

- (1) If he or she is under sixteen (16) years of age, he or she may not be employed during regular school hours, unless:
  - (a) The school authorities have made arrangements for him or her to attend school at other than the regular hours, in which event he or she may be employed subject to regulations of the commissioner of workplace standards during such of the regular school hours as he or she is not required to be in attendance under the arrangement; or
  - (b) He or she has graduated from high school.
- (2) A minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted, or suffered to work:
  - (a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety, or welfare of such minor unless:
    1. The minor is at least sixteen (16) years of age;
    2. The minor is employed by his or her parent or a person standing in place of a parent and works under adult supervision; and
    3. The minor is engaged in nonhazardous aspects of the electrical trades, including but not limited to activities such as pulling wire, setting boxes, or bending conduit;
  - (b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The

commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he or she make them less restrictive;

- (c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive; and
  - (d) In, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption, or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage and Cannabis Control Board (except that he or she may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.
- (3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety, or welfare of minors. He or she may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment, and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful

occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall consist of a representative from the Cabinet for Health and Family Services, the Department of Education, the Kentucky Commission on Human Rights and the Personnel Cabinet. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

➔Section 59. KRS 438.310 is amended to read as follows:

- (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine product, or vapor product at retail to any person under the age of eighteen (18), or solicit any person under the age of eighteen (18) to purchase any tobacco product, alternative nicotine product, or vapor product at retail.
- (2) Any person who sells tobacco products, alternative nicotine products, or vapor products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products, alternative nicotine products, or vapor products to persons under age eighteen (18).
- (3) Any person selling tobacco products, alternative nicotine products, or vapor products shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of eighteen (18).
- (4) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for a first violation and a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for any subsequent violation. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control using a civil enforcement procedure.

➔Section 60. KRS 438.311 is amended to read as follows:

- (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, alternative nicotine product, or vapor product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, alternative nicotine product, or vapor product. It shall not be unlawful for such a person to accept receipt of a tobacco product, alternative nicotine product, or vapor product from an employer when required in the performance of the person's duties.
- (2) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- (3) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage and Cannabis Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 61. KRS 438.313 is amended to read as follows:

- (1) No wholesaler, retailer, or manufacturer of cigarettes, tobacco products, alternative nicotine products, or vapor products may distribute cigarettes, tobacco products, alternative nicotine products, or vapor products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).
- (2) Any person who distributes cigarettes, tobacco products, alternative nicotine products, or vapor products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

- (3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) for each offense. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- (4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage and Cannabis Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 62. KRS 438.315 is amended to read as follows:

- (1) The sale of tobacco products, alternative nicotine products, or vapor products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.
- (2) The purchase of tobacco products, alternative nicotine products, or vapor products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.
- (3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, any vending machine from which tobacco products, alternative nicotine products, or vapor products are dispensed shall be located in the line of sight of the cashier for the retail establishment.
- (4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars



(\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

- (5) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage and Cannabis Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 63. KRS 438.317 is amended to read as follows:

- (1) No person shall sell or cause to be sold at retail cigarettes packaged in units of fewer than twenty (20) cigarettes.
- (2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available to a retail establishment cigarettes packaged for retail sale in units of less than twenty (20) cigarettes.
- (3) Any person violating subsection (1) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Any person violating subsection (2) of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500). These penalties shall be enforced by the Department of Alcoholic Beverage and Cannabis Control through civil enforcement procedures.

➔Section 64. KRS 438.320 is amended to read as follows:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the Department of Alcoholic Beverage

and Cannabis Control in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

➔Section 65. KRS 438.325 is amended to read as follows:

- (1) Each owner of a retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products, alternative nicotine products, or vapor products to any person under the age of eighteen (18) years and the purchase of tobacco products, alternative nicotine products, or vapor products by any person under the age of eighteen (18) years are prohibited.
- (2) Each owner of a retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products shall notify each individual employed in the retail establishment as a retail sales clerk that proof of age is required from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).
- (3) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on April 10, 2014, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products, alternative nicotine products, or vapor products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products, alternative nicotine products, or vapor products."
- (4) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (3) of this section in a place and in a manner so as

to be easily accessible to any employee of the Department of Alcoholic Beverage and Cannabis Control or the Department of Agriculture conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under the age of eighteen (18) as provided in KRS 438.305 to 438.340.

- (5) Any owner of the retail establishment violating subsections (1) to (4) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control in a civil enforcement procedure.

➔Section 66. KRS 438.330 is amended to read as follows:

- (1) The Department of Alcoholic Beverage and Cannabis Control and the Department of Agriculture shall carry out annually conducted random, unannounced inspections of retail establishments where tobacco products, alternative nicotine products, or vapor products are sold or distributed for the purpose of enforcing the provisions of KRS 438.305 to 438.340. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The Department of Alcoholic Beverage and Cannabis Control and the Department of Agriculture shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products, alternative nicotine products, or vapor products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of KRS 438.305 to 438.340 only if the testing is conducted under the direct supervision of the Department of Alcoholic Beverage and Cannabis Control, sheriff, or chief of police, or their employees, and written parental consent has been

obtained. The Department of Alcoholic Beverage and Cannabis Control shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

- (2) The Department of Alcoholic Beverage and Cannabis Control shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

➔Section 67. KRS 438.337 is amended to read as follows:

- (1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage and Cannabis Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.
- (2) The Department of Alcoholic Beverage and Cannabis Control shall be entitled to the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent (\$0.03) per pack revenue collected by the Finance and Administration Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be deposited in a trust and agency account created in the State Treasury, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.
- (3) The Department of Alcoholic Beverage and Cannabis Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.
- (4) The Department of Alcoholic Beverage and Cannabis Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors.

➔Section 68. KRS 438.340 is amended to read as follows:

The Department of Alcoholic Beverage and Cannabis Control and the Department of Agriculture are authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of KRS 438.305 to 438.340.

➔Section 69. KRS 431.073 is amended to read as follows:

- (1) Any person who has been convicted of a Class D felony violation of KRS 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 218A.1416, 218A.1417, 218A.1418,~~[—218A.1423,]~~ 218A.1439, 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060, 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140, 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040, 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050, 530.010, or 530.050, or a series of Class D felony violations of one (1) or more statutes enumerated in this section arising from a single incident, or who has been granted a full pardon, may file with the court in which he or she was convicted an application to have the judgment vacated. The application shall be filed as a motion in the original criminal case. The person shall be informed of the right at the time of adjudication.
- (2) A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later. Upon the payment of the filing fee and the filing of the application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a

response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application. The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.

- (3) Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.
- (4) The court may order the judgment vacated, and if the judgment is vacated the court shall dismiss with prejudice any charges which are eligible for expungement under subsection (1) of this section or KRS 431.076 or 431.078, and order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if the court finds that:
  - (a) The person had not previously had a felony conviction vacated and the record expunged pursuant to this section;
  - (b) The person had not in the five (5) years prior to the filing of the application to have the judgment vacated been convicted of a felony or a misdemeanor; and

- (c) No proceeding concerning a felony or misdemeanor is pending or being instituted against the person.
- (5) If the court has received a response from the office of the Commonwealth's attorney or county attorney that prosecuted the case stating no objection to the application to have the judgment vacated, or if one hundred twenty (120) days have elapsed since the filing of the application and no response has been received, the court may, without a hearing, vacate the judgment in the manner established in subsection (4) of this section.
- (6) Upon entry of an order vacating and expunging a conviction, the original conviction shall be vacated and the record shall be expunged. The court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. If the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.
- (7) An order vacating a conviction under this section shall not extend or revive an expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court regarding the conviction, and shall not constitute a finding of innocence regarding the conviction.
- (8) The Administrative Office of the Courts shall establish a form application to be used in filing an application to have judgment vacated and records expunged.
- (9) The filing fee for an application to have judgment vacated and records expunged

shall be five hundred dollars (\$500). The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks and shall not be refundable.

(10) This section shall be retroactive.

➔Section 70. The following KRS sections are repealed:

138.870 Definitions for KRS 138.870 to 138.889.

138.872 Levy of tax on offenders engaging in a taxable activity -- Rates.

138.874 Taxable activity prohibited unless tax paid -- Purchase of tax indicia.

138.876 Administration by Department of Revenue -- Authority for administrative regulations.

138.878 No preclusion from criminal prosecution.

138.880 Notification of Department of Revenue by Commonwealth's attorney or county attorney of nonpayment of tax after conviction or plea -- Filing of notice of lien -- Release of lien.

138.882 Assessments deemed prima facie valid -- Collection.

138.884 Investigative powers of department.

138.885 Personal and individual liability of officers of corporation subject to KRS 138.870 to 138.889.

138.886 Prohibition against use of information in criminal cases -- Penalty -- Publication of statistics not barred.

138.888 Collections to be deposited in general fund.

138.889 Penalties.

218A.1421 Trafficking in marijuana -- Penalties.

218A.1422 Possession of marijuana -- Penalty -- Maximum term of incarceration.

218A.1423 Marijuana cultivation -- Penalties.

➔Section 71. This Act shall be known and may be cited as the Cannabis Freedom Act.